

Department of Labor & Workforce Development

General Agency Information

The Tennessee Department of Labor and Workforce Development strives to be the nation's leading provider of comprehensive and efficient workplace and workforce services. Every day the Department of Labor and Workforce Development works to make the workplace safer, help those who are hurt on the job, educate and train individuals with the skills they need to enter the workforce, and help those who have lost a job through no fault of their own.

The six program areas in this Department – Administration, Safety and Health, Workers' Compensation, Labor Standards, Employment and Workforce Development and Employment Security work together as a team to improve the working conditions for both business and workers in Tennessee.

Tennessee Occupational Safety and Health Administration (TOSHA) strives to save lives, prevent injuries, and protect the health of Tennessee workers. Staff establishes protective standards, enforces those standards and reaches out to employers and employees through technical assistance, training and consultation programs.

Workers' Compensation administers the workers' compensation program and promotes a better understanding of the program's benefits by informing employees and employers of their rights and responsibilities, by mediating disputed claims, encouraging workplace safety, collaborating with law enforcement to combat fraud and overseeing an information awareness program and for educating the public on laws and regulations that define workers' compensation requirements. Workers Compensation also administers the Second Injury Fund and manages the innovative Drug Free Workplace Program.

The Division of Mines Safety provides and administers mine safety and education training to Tennessee miners, works with Tennessee mining operations in developing safe and healthy work environments and licenses the underground coal, surface and metal mines in Tennessee.

The Division of Boiler and Elevator Operations protects the general public, owners and users, and their employees from the potential hazards inherent to the operation of boilers, pressure vessels and elevators.

The Labor Standards administers and enforces the Child Labor Act, the Wage Regulations Act and the Prevailing Wage Act. The Labor Research and Statistics division conducts the Bureau of Labor Statistics Survey of Occupational Injuries and Illnesses and the OSHA Log Data Collection Initiative Survey to obtain data on non-fatal workplace incidents.

Employment and Workforce Development is responsible for delivering the Department's employment and educational services to employers and job seekers with single points of contact; and customized packages of services including the Division of Aging, which implements the Senior Community Service Employment Program.

Employment Security provides a safety net for workers who have lost their jobs through no fault of their own, accepts initial and partial unemployment claims of Tennessee residents, collects unemployment insurance premiums from employers, serves as the state's official source for

employment research and statistics and helps employers who are looking at business expansions or are interested in labor availability and wage information. For businesses, this department is a source for more skilled workers, recruitment and training services. For job seekers, it serves as a source for job training, information, placement and opportunities.

The goal is to bring together Tennessee workers and employers in a safe and profitable workplace. Through a wide range of services, offering everything from adult education programs to retraining opportunities for workers who have lost their jobs to professional job applicants seeking a career change, the Department of Labor and Workforce Development works to make this goal possible. Tennessee Career Centers and local Labor and Workforce Development offices are where employers and job seekers come together. Employers can access job information, explore tax credits and have qualified job applicants referred to their companies.

The Department of Labor and Workforce Development contains the following programs to carry out its responsibilities:

1. Administration
2. Tennessee Occupational Safety and Health Administration (TOSHA)
3. Mines
4. Boilers and Elevators
5. Workers' Compensation
6. Second Injury Fund
7. Uninsured Employers Fund
8. Labor Standards
9. Employment and Training
10. Adult Basic Education
11. Employment Security
12. Employment Development

Administration

337.01 Administration

The Administration allotment code consists of the Commissioner's Office, Administrative and Fiscal Services, the Information Office, Information Technology, Internal Audit, Legal Services, and Personnel.

Statutory and Constitutional Objectives

In May 1999, the 101st General Assembly unanimously adopted the Tennessee Workforce Development Act of 1999. This act created a new Department of Labor and Workforce Development, integrating the existing departments of Labor and Employment Security, the Adult Education program, and the employment and training component of the Food Stamp program. Aging has been added effective July 1, 2003.

Mandated and Optional Services and Means of Providing Them

The Workforce Development Act of 1999 mandates that the Commissioner of Labor and Workforce Development develop and implement services which foster the continued enhancement of Tennessee's workforce, ensure the maintenance of a fair, equitable and fully funded unemployment insurance program and to be responsible for the administration of a workforce development system that protects the life, health and safety of Tennessee's workforce.

These services include the overall administration of the department and its programs. This includes the office of the Commissioner, which is mandated to formulate policies, procedures, and long-range plans to carry out the mission of the department outlined in Tennessee Code Annotated (TCA) 4-3-1407(1-3).

TCA 4-3-304(7) and 4-3-304(9) mandate the use of internal audits to provide management with objective reviews of departmental processes and include recommendations for improvements.

OMB A-133 mandates the Department of Labor and Workforce Development receive sub-recipient audit reports.

TCA 8-19-501 and TCA 9-18-101 through 104 mandate preparing property loss reports and coordinating departmental compliance with the Financial Integrity Act.

TCA 8-6-301 permits the office of the attorney general to employ staff attorneys and requires that the work of the staff attorneys be supervised and directed by the agency that employs them. In accordance with TCA Title 50 and its ensuing rules and regulations, the Department of Labor and Workforce Development employs attorneys to provide legal representation.

TCA 8-30-201, TCA 8-30-202 and TCA 8-30-203 mandate that Personnel services are based upon the principles of public personnel administration.

Performance Standards

1. Process invoices/travel claims, payroll/insurance transactions and Trade Act Adjustments / Trade Readjustment Allowance claims in an accurate and timely manner.
2. Maintain or improve IT help-desk approval rating from callers seeking assistance.
3. Maintain eCMATs availability to users.
4. Conduct complete internal audits to monitor the performance of the Department of Labor and Workforce Development.

Performance Measures

1. a. Invoices/travel claims processed within 10 working days.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
90%	92%	93%

b. Trade Act Adjustments / Trade Readjustment Allowance claims are processed within 10 working days.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
85%	86%	87%

2. Help Desk approval rating.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
96%	96.5%	97%

3. Percentage of uptime for CMATs.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
98.29%	98.5%	99%

4. Number of internal audits conducted.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
2	2	2

Obstacles to Meeting Objectives and Delivering Services

Receiving approval in a timely manner for the Department of Personnel is necessary to ensure the hiring process proceeds as quickly as possible. Sometimes the procurement process can be lengthy if the person approving is out of the office or the invoice is sent in without proper signatures. Travel claims may be filled out incorrectly and have to be sent back to employee for correction.

Fiscal and Administrative services face procurement problems when a lack of specific information or accurate specifications are given because the service is dependent of General Services schedule.

The nature of law and legal services require a continuing education process that ensures the specific knowledge of specialized areas of laws, statues and rules necessary to effectively represent clients. Not all areas of service are able to participate in continuing education classes. Since 2000, the number of cases has increased by fifty percent. Currently, demand for service is exceeding the available supply of attorneys and support staff.

Means of Overcoming Obstacles

Upper management needs to stress the importance of submitting the proper documents/forms with complete information and appropriate approvals for timely processing.

Information Technology provides a detailed document to the Office of Information Resources via the Information Systems Three Year Plan outlining upcoming projects, plans and recommended enhancements to the IT workflow.

One copy of the most recent addition of TCA and any other book of statutes, laws and codes should be at the disposal of each attorney. Furthermore, when an opportunity for a continuing education class presents itself, the person with the greatest need for the class should attend.

Means of Maximizing Federal and Other Non-State Sources of Revenue

Mandated guidelines on performance should be met and, where possible, exceeded. A continued emphasis on the importance of continuing education will instill a need to maintain a highly educated department. The collection of fines of fines and taxes should continue.

The Information Office financed an advertising campaign for the Tennessee Career Centers by getting the local administrative entities involved. Their involvement helped pay the cost of the campaign.

Means of Avoiding Unnecessary Costs and Expenditures

The department should continue to look at ways to use people that are “in house” utilizing the talents and skills of personnel, instead of contracting outside agencies.

Managers should be given the authority to buy equipment, as well as, approval for travel, training and anything they deem necessary within their budget.

All personnel are encouraged to use forms that are attached to email for ordering and to use the fax to obtain approval signatures on invoices. This reduces the cost of ordering forms and postage costs of mailing back and forth from Central Office and Local Offices.

In the past, the department has contracted out video productions for training videos, promotional videos and public service announcements. The Information Office now has the equipment and ability to produce these videos in-house, saving the department hundreds of thousands of dollars.

Future Challenges and Opportunities

The Information Office faces the challenge of promoting the departmental services and initiatives to the public across the state. With a unified marketing plan, new logo and partnerships with media across the state, the opportunity to reach a larger population is within reach.

Performance Data Schedule

Department/division meetings will be scheduled bi-weekly to keep all employees informed of training offered and events in each service.

Weekly reports from all services will be sent to the Commissioner. A monthly review of each program will be included. Quarterly data, comprised of monthly reports, will be reported by the department. All data will be available on the 15th of the month following quarter end.

Data Verification

The Program Managers and the Administrator will verify the information released on the Performance Data Schedule.

Safety and Health

337.02 Tennessee Occupational Safety and Health Administration (TOSHA)

The primary goal of Tennessee's Occupational Safety and Health Administration's (TOSHA) is to improve occupational safety and health in workplaces throughout the state. Improved safety and health in the workplace will result in reduced injuries, illnesses and fatalities. TOSHA has continued to meet its strategic goals for the last five years, and continues to receive grants from OSHA to improve safety and health in the workplace.

Tennessee's program services are delivered through a central office in Nashville and five field offices located in six strategic geographical areas in Chattanooga, Jackson, Kingsport, Knoxville, Nashville and Memphis.

The General Assembly mandates TOSHA to ensure that every employer furnish a place of employment free of recognized hazards and provide a safe and healthful workplace for its employees. While the legislated mandate and philosophical approach to the implementation of the state's Occupational Safety and Health Program has remained constant, the resources, delivery of services and staff relationships to citizens are constantly reevaluated. This provides a relevant mix of strategies to address current needs and direction.

The services inside the TOSHA division include:

The Administrative section ensures that TOSHA services are provided to employers and employees statewide. Policy and enforcement activity is implemented in an effort to further enhance the professional credibility of the program. The TOSHA program has received continuous support from both the executive and legislative branches of state government. Sound management methods have resulted in cost-effective services being provided in accordance with state/federal mandates, policies and philosophy. The program uses acceptable accounting principles that meet state and federal guidelines to comply with the five-year strategic plan.

The Safety & Health Compliance section ensures compliance with standards, rules and regulations set forth by the Tennessee Occupational Safety and Health Administration. The primary objective of the Enforcement Section is to prevent and minimize occupational work-related illnesses and injuries in the state through inspections, technical assistance to employers and employees, and issuance of citations and penalties for violations of the standards are methods

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of achieving this objective. A trained staff of industrial hygiene and occupational safety professionals accomplishes these activities. The Compliance section performs four basic types of inspections: Imminent Danger, Accident Investigations, Complaint and General Schedule.

The Public Sector program requires each administrative department and agency of the state to establish and maintain a safety and health program. Each county, municipality or other local government must implement its own program or be treated as a private employer. The Public Sector section assists public sector employers in developing a safety and health program to comply with the Act. Once an agency or local government has established a written program, it is reviewed by TOSHA for compliance. The Tennessee public sector plan is unique in that all written programs are submitted by local governments and are approved by TOSHA. The plan must commit to voluntary compliance with the law and standards as promulgated by TOSHA. Monitoring visits are scheduled every two years. No penalties are issued in the Public Sector for government agencies who have submitted programs.

TOSHA responds to complaints of discrimination based on participation in a protected activity in the workplace in a timely manner. All discrimination investigations will be processed in a timely manner with recommendations for further action. Discrimination cases with merit, that are not set led, will be referred to the Department of Labor and Workforce Development Legal Staff for referral to the Attorney General.

The Standards & Procedures section prepares state and federal rules changes and federal program changes for adoption by the State. This section provides interpretations of specific standards and help to both employers and employees in finding and understanding TOSHA standards. The section provides standards manuals for 29 CFR 1910 General Industry, for 29 CFR 1926 Construction and for 29 CFR 1928 Agriculture at cost. This section adopts federal rules changes to remain "at least as effective as" the federal program and adopts state rule changes.

The Training and Education section advises and assists employers, employees and their representatives to increase their knowledge and awareness of safety provisions and practices of the OSHA Act. In addition, this activity also collaborates with the each section in providing programs of training and continuing education for staff members. The primary mechanisms for achieving these goals are through seminars, speeches, on-site programs and participation in safety and health conferences. This section publishes a quarterly newsletter that serves as another vehicle for disseminating safety and health-related information to over 18,000 people on the division's mailing list.

The Volunteer STAR is a Voluntary Protection Program (VPP) designed to recognize and promote effective safety and health management at manufacturing sites within Tennessee. In the VPP, management, labor and TOSHA establish a cooperative relationship at a workplace that has implemented a strong safety and health program. Prior to applying to the Volunteer STAR program, a site must maintain three-year injury and illness rates below the national average for their industrial classification.

Consultative Services provides employers to the extent feasible, advice and assistance to enable them to improve occupational safety and health in their work places. When hazards are identified or violations of the OSHA standards are found, no citations or penalties are issued. A correction period is established for all hazards identified. Consultation records are completely separate from enforcement records, and employers who take advantage of consultative services may receive

consideration for such when they receive an enforcement inspection. These companies are exempt from compliance inspections while working with consultation.

Statutory and Constitutional Objectives

The Tennessee program was authorized through legislation in Tennessee Code Annotated (TCA). The Tennessee Occupational Health Act of 1972 (TCA Title 50, Chapter 3) was passed and became operational in July 1973. A public sector program to extend coverage to government employees was added in 1974. The program operated as a dual-designee (Public Health and Labor Departments) until July 1977. At that time, the General Assembly enacted legislation to transfer the health function to the Labor Department. The Tennessee Occupational Safety and Health Administration (TOSHA) program was certified in May 1978 and final (18-E) determination was achieved in July 1985.

In July 1999, the Tennessee General Assembly combined the Department of Labor with the Department of Employment Security into the Department of Labor and Workforce Development. TOSHA is a division of the Department of Labor and Workforce Development.

Mandated and Optional Services and Means of Providing Them

TOSHA is required to perform mandatory activities by TCA Title 50 Chapter 3.

Fiscal personnel track the use of grant funds for TOSHA and track penalty payments in accordance with State of Tennessee guidelines for delinquent accounts. Companies that do not pay penalties within six months of the citation issue date are referred to the Attorney General's Office for collection (TCA 50-3-107 & 50-3-408).

The Commissioner adopts Occupational Safety and Health rules (TCA 50-3-201).

TOSHA continues to respond actively to complaints of discrimination in the workplace (TCA 50-3-106(8)).

All discrimination investigations are processed in a timely manner with recommendations for further action. Discrimination cases with merit and not satisfactorily settled are referred to the Tennessee Department of Labor and Workforce Development Legal Staff for referral to the Attorney General (TCA 50-3-409).

Advanced notice of inspections is given only in accordance with the FOM and only with the TOSHA Administrator's knowledge and approval (TCA 50-3-306).

TOSHA acts on all Imminent Danger situations through intervention and inspection before any other compliance activities are performed (TCA 50-3-301 & 50-3-304(a) (1)).

TOSHA inspects all reported accidents involving a fatality or where three or more employees are hospitalized that is within its jurisdiction (TCA 50-3-702).

TOSHA evaluates and investigates approximately 550 complaints a year to ensure that potential hazards are eliminated as soon as possible. Emphasis is placed on resolving complaints by letter and telephone/facsimile. All complaints are evaluated and 90% showed a correction of hazards identified. All complainants, who provide their names, are notified of the results of an intervention by letter within 10 days after a citation is issued or when the inspection is closed without citation (TCA 50-3-304(a) (2-5)).

TOSHA maintains a penalty structure, which sanctions employers who violate the TOSHA standards and fail to provide their employees with a safe and healthful workplace. First-time violators of the TOSHA standards receive fines where penalties are required by the nature of the hazard (TCA 50-3-402, 50-3-403, 50-3-404, 50-3-405 & 50-3-406).

TOSHA identifies and abates over 8,000 hazards in the workplace during 2,000 inspections and visits each year. TOSHA ensures all violations and hazards identified during enforcement and consultation actions are abated correctly, removing employees from potential injury. Written or on-site abatement verification is required for all identified violations. All letters received indicating abatement of violations are evaluated for adequate documentation. Abatement verification with significant documentation (photos, invoices, etc) is required for all high gravity serious, repeated and willful violations. Employers are notified during enforcement actions that rapid, well-documented correction of violations will be taken into consideration for penalty reductions (TCA 50-3-307).

TOSHA provides access to safety and health information for the public to improve safety and health in the workplace. It is important to provide interpretations of TOSHA standards. Staff gives assistance to employers, employees and the general public on controlling hazards in the workplace by answering technical questions on a daily basis, providing training and informational booklets and handouts. Maintaining a TOSHA web site for employers and employees to obtain information on safety and health, TOSHA programs, and connect to other web sites where additional information is available (TCA 50-3-904(4)).

TOSHA continues to attempt to resolve all cases in an informal manner prior to formal Review Commission hearings. Informal conferences are held within 20 days of the employer's request. Approximately 2% of all cases are contested each year. TOSHA monitors selected conferences to ensure uniform and reasonable settlements are reached (TCA 50-3-105(5&6)) & (TCA 50-3-106(11)).

TOSHA provides employers and employees a method of disagreeing with the results of interventions in their workplaces. Complainants who provide their names and addresses are provided a mechanism to question the results of interventions involving complaints that they file with TOSHA. Employers and employees are given 20 days from the receipt of the citations issued to contest the citations, penalties or abatement dates (TCA 50-3-105(5), 50-3-105(6), & 50-3-106(9)).

An independent Occupational Safety and Health Review Commission is appointed to review citations and determine the merit of each contested case. They oversee withdrawals of contestments, formal settlement agreements and render decisions in all contested cases (TCA 50-3-802).

High quality training programs are developed and presented throughout the state in accordance with the emphasis toward education in the five-year strategic plan. All trainers participate in

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classes on effective training techniques before they perform training. They are approved by the Manager of Training (TCA 50-3-904).

TOSHA provides inspection information in response to Freedom of Information Requests within 15 days of payment for copying charges (TCA 10-7-503).

TOSHA provides the Department of Labor and Workforce Development Rules and TOSHA General Industry, Construction and Agriculture standards at cost. On-site consultation services are offered to small employers.

TOSHA assists and encourages employers to develop and implement safety and health programs in their workplaces by providing award programs that recognize companies that implement effective safety and health programs and publishing a quarterly newsletter.

TOSHA provides access to safety and health information to the public to improve safety and health in the workplace. The division provides copies of the TOSHA Standards and Rules at cost.

Training sessions for new standards are conducted. Prior to the effective date of TOSHA enforcement of a new standard, training presentations are made and information is provided to the public. All professional staff members receive information and/or training on the new standards prior to the effective date. Information on new standards is provided at all conferences and presentations. New standards are highlighted in articles in the Quarterly TOSHA Publication.

Performance Standards

1. Eliminate serious hazards in workplaces where interventions take place.
2. Reduce the number of fatalities due to falls.
3. Provide training in occupational safety and health training classes.
4. Implementation of improvements in employer occupational safety and health programs in workplaces where TOSHA Compliance has had an intervention.

Performance Measures

1. Number of serious hazards identified in workplaces during TOSHA interventions.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
6,128*	6,000	6,000

2. Percent reduction of fatalities from falls in 1999.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
9%*	18%	28%

3. Number of people trained in occupational safety and health training classes.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
7,527*	7,500	7,500

4. Number of workplaces where improvements in employer occupational safety and health program were made where TOSHA Compliance has had an intervention.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
826*	800	800

*This number is an estimate as actual figures were not available for 2002-2003.

Obstacles to Meeting Objectives and Delivering Services

Historically, turnover of technical employees has been a problem limiting the ability to have concerted efforts toward meeting goals. Training a field enforcement officer takes a minimum of one year, and an advanced Compliance Officer, Trainer, or Consultant three years.

Turnover and unfilled positions can affect spending of federal funding. If staffing levels are not maintained TOSHA could lose funding.

Mandated activities required under the Act and mandatory activity measures required by OSHA under the grant program must be performed and are in the best interest of the people of Tennessee. These include investigation of accidents, fatalities, catastrophes, answering employee complaints, and answering technical assistance questions from the public on a daily basis.

Means of Overcoming Obstacles

The turnover rate for technical personnel was greatly reduced and was a factor in the achievement of the strategic goals for 2002 and 2003. The significant increase in the pay scale in May 2001 helped reduce turnover and produced better results in 2002 and 2003. TOSHA offers its staff training opportunities in safety and health that cannot be achieved in private industry. A stable, professional working environment and a job that provides its employees with a varied look at safety and health in many industries are incentives for employment.

TOSHA continues to fill available positions as soon as they become unfrozen, civil service procedures can be fulfilled and adequate staff is available to perform training. TOSHA recently received from the Department of Personnel a blanket freeze approval on Compliance Officer Positions.

The mandated activities required by the Act are a priority. All interventions (Accident Investigations, Phone/FAX Complaints, Complaint Inspections, etc) were scheduled completed, and where possible, directed toward the achievement of the Performance Plan and the Strategic Plan's goals and objectives.

Means of Maximizing Federal and Other Non-State Sources of Revenue

TOSHA will maximize its sources of revenue by continuing to meet the benchmark staffing requirements of the grant for the Compliance Program. Staffing levels affect the amount of money that will continue to be provided to TOSHA. The division has requested that OSHA Department of Labor and Workforce Development

provide additional funding to promote the Consultation program. The grant application for 23(g) and 21(d) will be completed by September 1 each year and the performance report will be completed by December 1 each year. The division will meet all mandatory activity measures required by the US Department of Labor – OSHA and will continue to meet the requirement of “being as effective as or more effective than OSHA.”

Means of Avoiding Unnecessary Costs and Expenditures

TOSHA has a number of internal cost control procedures in place to avoid unwarranted and/or unauthorized expenditures. Adherence to policies and procedures for procurement, travel and related expenditures is strictly enforced.

The funding for each OSHA grant is submitted to Washington annually and must be approved. Federal auditors from the regional office in Atlanta audit the program each year. All purchases and travel requests are approved through the Department and State Finance and Administration.

In addition to the annual federal monitoring reviews, departmental internal auditors as well as the State auditors from the Office of the Attorney General also monitor TOSHA annually.

Future Challenges and Opportunities

TOSHA will continue to face staffing shortages due to the demand for quality safety and health professionals in the private sector. However, this challenge provides TOSHA with the opportunity to contribute more qualified and trained persons to the safety and health profession in Tennessee and the nation and welcome the challenge to train individuals interested in this arena.

The workforce in Tennessee is large. There are 1,652 workplaces for each of the division’s 73 professional field staff members to evaluate. Therefore, the division must develop targeting strategies that use resources effectively. Evaluations will be directed to high hazard industries and workplaces, where employers request assistance, and to those employers who choose to not keep their workplaces safe and healthful.

The workplace is changing with new types of businesses that have hazards both internal and external. The standards TOSHA enforces cover all types of workplaces. New standards and information on new biological, chemical and physical hazards is discovered regularly. These include diverse problems such as workplace violence, mold in the workplace and homeland security. The division’s in-house training plan and OSHA Technical Institute classes ensure professional staff remains up-to-date on the latest safety and health literature and technology.

The Hispanic population of Tennessee is increasing and with it the number of injuries and illnesses experienced by them. In the next 10 years, the number will increase requiring TOSHA to have more bilingual personnel to communicate effectively. The division is in the process of obtaining the services of translators in all areas of the state to help with interviews and witness statements.

TOSHA has worked with the Tennessee Office of Homeland Security and Tennessee Emergency Management Agency to develop a response plan. The plan will provide technical assistance and

ensure the safety and health of emergency response workers during response incidents and site workers during any subsequent cleanup.

Performance Data Schedule

TOSHA produces a monthly report of all performance standard measures and an annual activity report on December 1. All data will be available on the 15th of the month following quarter end.

The TOSHA program will continue to use the federal IMIS system and maintain communication with OSHA by providing operational data. TOSHA provides daily and weekly transmission of operational data (Accident Investigations, Complaints, Inspections, Referrals, Violations, Contestments, Payments, etc.) to the IMIS system. Corrections to errors on the IMIS system are performed the day they are received. The division continues to ensure that all inspection-related forms are entered correctly and transmitted to the National Office in a timely manner.

OSHA provides quarterly activity measure reports covering a two-year period. These reports produce data that is broken down into quarterly, semi-annual, annual and two-year segments.

Data Verification

TOSHA enforcement and consultation data is sent to OSHA and verified for accuracy daily. Data that is not correct is identified as an error. TOSHA corrects the error and resubmits it to OSHA until it is no longer returned as an error. TOSHA reports requiring the totaling of information also contain specific verification of the data. Federal reports are analyzed for accuracy and where discrepancies are found identified, researched and reported to OSHA. The division relies on BLS and Worker's Compensation data to be correct. Training data is entered, checked and verified by the Training section of TOSHA.

337.04 Mines

The Mines Division offers mine safety classes, mine foreman exams; issues mine licenses and provides mine rescue coverage. Federal Mine Safety and Health Administration (MSHA) Part 46 and 48 mandate that each person who works on a mine property shall receive health and safety training before beginning work. Miners shall also receive annual refresher training throughout their career. There are 264 mines located in Tennessee (242 under part 46) and (22 under part 48).

Statutory and Constitutional Objectives

Tennessee Code Annotated (TCA) Title 59, Chapters 4, 8 and 12 mandates the services of the Division of Mines. Federal guidelines mandate new miner and annual refresher training in underground and surface for coal and metal/nonmetal mines, mine rescue training, maintaining mine rescue station and electrical qualifications for coalmines.

Mandated and Optional Services and Means of Providing Them

Mine Safety & Health Administration mandates that all underground and surface coalmines, all metal underground and surface mines and all underground non/metal mines receive training from an MSHA approved instructor. This includes mine rescue coverage for underground operations as well as electrical certification/qualifications for the coal industry.

An optional service is the provided training for the surface non/metal operations and contractors that are used by the operators. Another training service provided is first aid/CPR training to all interested parties employed with these companies.

Performance Standards

1. Provide mine foreman exams quarterly.
2. Teach mine safety classes upon requested by industry.
3. Increase number of persons trained in mine safety each year.

Performance Measures

1. Number of persons taking Tennessee mine foreman exam.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
28	33	30

2. Number of mine safety classes taught.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
218	229	230

3. Number of persons trained

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1,983	2,210	2,265

Obstacles to Meeting Objectives and Delivering Services

The division is not informed of all new mining operations in the state.

With the addition of new regulations implemented by the Mine Safety and Health Administration, the mine safety instructors must be updated on training, equipment and materials frequently.

Means of Overcoming Obstacles

The Mines Division works closely with MSHA, mine operators and mining agencies of other states to promote safety in every aspect of mining.

Purchasing updated mining equipment on an as needed basis. Ensure that instructors are trained to fulfill the needs, as they occur by attending the required seminars and training.

Means of Maximizing Federal and Other Non-State Sources of Revenue

The division is partially funded by a grant from the Federal MSHA, which specifies that all mine safety instructors be approved to teach new miner and annual refresher training. These various courses are required by industry. Monies received from mine operators for mine safety classes taught to their employees are used to help fund the division's budget.

Means of Avoiding Unnecessary Costs and Expenditures

Undergo at least one state and federal audit yearly.

Future Challenges and Opportunities

Increased competition will be seen with regard to contract trainers.

Performance Data Schedule

The division will report all performance standard measures on a quarterly basis. All data will be available the 15th of the month after quarter end.

Data Verification

The Program Managers and the Administrator verify the information released on the Performance Data Schedule. Feedback from MSHA representatives will also be used to ensure that all reported data is accurate.

337.05 Boilers and Elevators

The responsibility of the Boiler Inspection Division is to protect citizens from the potential hazards involved in the operation of boilers and pressure vessels in the state of Tennessee. There are three categories of vessels that are inspected: high pressure, low pressure and unfired pressure vessels. There are approximately 65,000 boilers and pressure vessels currently operating in the state.

The Boiler Inspection Division licenses boiler repair companies to repair boilers and pressure vessels. There are over 150 repair companies licensed to repair boilers and pressure vessels in Tennessee.

The Boiler Inspection Division is also responsible for conducting tri-annual quality control reviews for the American Society of Mechanical Engineers and the National Board of Boiler and Pressure Vessel Inspectors. The reviews are performed on companies that are in the state of Tennessee, that manufacture and/or repair boilers and/or pressure vessels.

The responsibility of the Elevator Division is to ensure the safety of every passenger and freight elevator in the state. Currently there are over 20,000 inspections a year. The division also conducts initial inspections on new buildings to insure proper installation, and makes non-appointment inspections to verify safety codes are being met. An elevator inspector is responsible for conducting accident reports, and reporting to the Chief Inspector of their findings.

Statutory and Constitutional Objectives

Tennessee Code Annotated (TCA) 68-122 requires the Boiler Inspection Division to inspect, register and invoice all boilers and pressure vessels that are operating within the criteria of the law; that all boiler and pressure vessel repair companies are licensed with the Boiler Inspection Division; and that manufacture and repair companies receive a tri-annual quality control review.

TCA 68-19-105 elevators, dumbwaiters and escalators must be registered within seven days of their completion and placed in service. The state elevator board governs the division.

The National Board Inspection Code and amendments thereto, provide a framework for the inspection of boilers and pressure vessels.

Mandated and Optional Services and Means of Providing Them

TCA 68-122 mandates the inspection, registration and invoicing of all boilers and pressure vessels, and the licensing of all repair companies. Through the adherence to this process one service, Tri-Annual Quality Control Reviews, has emerged that contributes to the activity.

The Tri-Annual Quality Control Reviews are performed by a certified Review Team Leader on companies, for the American Society of Mechanical Engineers (ASME) and the National Board of Boiler and Pressure Vessel Inspectors (NBBI), on companies that are in the state of Tennessee, that manufacture and/or repair boilers and/or pressure vessels. The Boiler Inspection Division is asked by the ASME and NBBI to perform the required Tri-Annual Quality Control Reviews at no cost to the state. All man-hours and expenses are paid by the company receiving the service (review). This service is performed at a lower rate to Tennessee based companies than can be accomplished by the ASME and the NBBI.

TCA 68-19-106 mandates scheduling of inspections, testing of elevators dumbwaiters and escalators. The results of these inspections must be reported.

Performance Standards

1. Have no more than 30 days between the dates the boiler inspection is performed, the report is processed, and the date the invoice of certificate/inspection is printed.

2. Continue to have an annual decline in the number of boilers and pressure vessels that are classified as being in delinquent inspection status (more than 90 days overdue for inspection).
3. Have no more than 30 days between the dates the elevator inspection is performed, the report is processed, and the date the invoice of certificate/inspection is printed.

Performance Measures

1. The average percentage of boiler inspection reports that were processed within the required 30-day allotted timeframe.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
93%	94%	95%

2. Annual number of boiler and pressure vessels that are in delinquent status.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
5,532	4,500	3,000

3. The average percentage of elevator inspection reports processed within the 30-day allotted timeframe.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
99%	99%	100%

Obstacles to Meeting Objectives and Delivering Services

With the advent of the Boiler Electronic Reporting Program, there have been situations where field inspectors have fallen behind due to equipment downtime and system rejected reports. At this time, there are a small percentage of reports that are being rejected by the Interface Program (the system that edits the reports). However, there have been situations where inspectors have had inspection reports rejected by the Interface Program; the occurrences are becoming less frequent.

With the need to upgrade computer equipment and software programs, to keep up with technology, the division could see a time where year-end revenues may not be higher or equal to years past.

With the growth in the installation (notification) of boilers and pressure vessels throughout the State, and the shortage of qualified commissioned boiler inspectors, the division may find itself in a situation where the number of delinquent vessels could remain stagnant, or even rise.

There is no guarantee that elevator companies will follow the accepted rules when installing new elevators. Furthermore, the division is experiencing improper notification by elevator companies for new acceptance inspections.

Means of Overcoming Obstacles

With the advances in technology and software, the division could utilize these advances to ensure that inspectors have the most up-to-date and reliable equipment the division can provide. Additional, ongoing training in the proper procedure and practices in reporting of inspections would assist in the endeavor to process inspection reports in the allotted timeframe.

To overcome revenue shortages and surpassed budgets in the replacement of equipment, the division needs to have a proposed plan of action to ensure that there is a minimal amount of time spent on replacing and training of new equipment. There must also be a situated training schedule for newly hired Boiler Inspectors, to set the most efficient timeframe between the hire date and the date the inspector becomes certified (able to inspect).

The division must keep a close watch of the current delinquent list, and track the progress of its decline. The division must also be attentive to the increase of initially installing boilers and pressure vessels, and its effect on the workload of the current inspectors. If the workload becomes overbearing, the management of the division must take necessary steps to increase the inspection staff for the division.

The division must track delinquent notices and conduct follow up inspections on a monthly basis. The division must continue working with Information Systems to develop an in house elevator-tracking program. The division also needs inspectors to attend training and refresher courses to keep them abreast of all new safety regulations.

Means of Maximizing Federal and Other Non-State Sources of Revenue

Both the Boiler Inspection and Elevator Inspection Divisions are self-supporting and require no outside funding.

Means of Avoiding Unnecessary Costs and Expenditures

With systems such as the Boiler Inspection Program, Interface Program and Boiler Search Program, the division has made great strides informing inspectors of due inspections, along with the ability to locate boilers and pressure vessels that are in the same vicinity and will also be due for inspection.

Careful monitoring of supply ordering and distributing is essential in keeping costs to a minimum. All supplies that are requested from the field and office staffs must first be approved by the applicable supervisor. The supervisor will log all requests to ensure waste does not occur. Mileage claims (Expense Reports) are monitored closely by the supervisor to ensure that the field staff is scheduling their workday in the most efficient manner. The supervisor will perform corrective action and instruction if a mileage claim is found to be in question.

Inspectors are strategically located throughout Tennessee to cut down on unnecessary travel costs.

Future Challenges and Opportunities

The division must find the best way to overcome the changes in technology of the electronic entry of inspection reports. The division must find which process best suits the division. The change from a stand-alone process to a real-time program has hidden challenges to the division (e.g., new equipment, connectivity problems and speed, retraining, etc.).

Replacement of existing Deputy Boiler Inspectors that are near retirement (7) is a major concern of division. Even with the average age of an inspector (55) being the lowest in some years, the process of replacing inspectors that retire, or leave state government, is one that can be very difficult. Similar problems face the Elevator inspectors where currently 15 inspectors of 21 have retired from an elevator company and can leave the state at any time for full time retirement.

Performance Data Schedule

The Boiler and Elevator Inspection Division processes inspection reports and produces operating certificates and invoices the afternoon of every Friday. There is also a monthly audit of the amount of remaining delinquent vessels and vessels that are in Red Tag status. The scheduled audits of the division's processes help us to be abreast of any shortfalls.

Certificate and inspection invoice are processed daily, monthly audit and progress reports are reviewed by the Chief and Assistance Chiefs; and inspectors are subject to them personally going on the job to insure quality is being preformed.

Delinquent accounts are being processed on a 75, 90, 105, 120, 150-day level; this includes telephone calls, suspension letters, delinquent red tag letters and legal.

All data will be available on the 15th of the month following quarter end.

Data Verification

All data on the inspection reports is verified through quality assurance from the office staffer that is processing the reports. Random audit of data is often performed by the Chief Inspector, Assistant Chief Inspector and Office Supervisor to ensure accuracy and completeness.

Quality Assurance is evaluated by Chief, Assistant Chiefs and Office Supervisor, random in house audits, internal and external audits.

Workers' Compensation

337.03 Workers' Compensation

Workers' Compensation is responsible for administering the state's workers' compensation system by promoting better understanding of the program's benefits and informing employees

and employers of their rights and responsibilities. Workers' Compensation administers a mediation program for disputed claims, encourages workplace safety and oversees an information awareness program for educating the public on laws and regulations that define workers' compensation requirements. Workers' Compensation oversees the drug free workplace program designed to promote drug and alcohol free workplaces for increased productivity and enhanced competitive position free from the costs, delays and tragedies associated with work-related accidents resulting from substance abuse employees. Workers' Compensation ensures that companies properly provide benefits while both assessing and collecting penalties for noncompliance from employers and insurance companies.

The division contains the following mandated services: Benefit Review, Case Management and Utilization Review, Claims, Coverage, Drug Free Workplace and Uninsured Employers Fund; Note: This is discussed under allotment code 337.14. The division contains six offices across the state: Memphis, Jackson, Nashville, Chattanooga, Knoxville and Kingsport.

Statutory and Constitutional Objectives

Tennessee Code Annotated (TCA) Title 50, Chapters 6 and 9 and Title 56, Chapter 47 and General Rules and Regulations Chapters 0800-2 require the Division of Workers' Compensation to administer the state's workers' compensation system.

Mandated and Optional Services and Means of Providing Them

State law mandates all Workers' Compensation services. There are no optional services.

Benefit Review provides information and assistance regarding workers' compensation laws, rules and procedures for early resolution of workers' compensation disputes in order to minimize adversarial relationships between parties, decrease litigation and reduce the overall costs of workers' compensation claims for all parties as mandated by TCA 50-6-239.

Case Management and Utilization Review coordinates services provided by employers and insurance carriers to ensure that employees receive reasonable, necessary and cost effective medical services as mandated by TCA 50-6-123.

Claims receives all claims forms filed by the employer, insurance carriers, and attorneys as well as maintaining the official state file and records of all of the programs within Workers' Compensation through imaging technology as mandated by TCA 50-6-201.

Coverage receives all insurance filings and maintains a record of workers' compensation coverage as mandated by TCA 50-6-406.

Drug Free Workplace establishes standards for voluntary programs implemented by employers to prevent the abuse of alcohol and drugs in the workplace as mandated by TCA 50-9-101. The procedures for testing for drugs and alcohol under TCA Title 50, Chapter 9 are mandated by the U.S. Department of Transportation's rules for workplace drug and alcohol testing compiled at 49 C.F.R., Part 40. The laboratory conducting the testing must be certified by the Substance Abuse and Mental Health Services Administration or the College of American Pathologists.

Workers' Compensation is a government entity, as such; there are no private industries that offer the services that the division provides free. However, private lawyers and mediators can provide information and assistance regarding workers' compensation claims for a fee to both injured employees and employers. The court system can hear disputed workers' compensation claims, although, judges across the state are requiring disputed cases be processed through the Benefit Review Program before they will hear the cases. Through Electronic Data Interchange, the division is able to obtain workers' compensation coverage information. This is information provided by private insurance carriers but the division is required by state statute to collect and analyze relevant statistical data and other information necessary to evaluate the workers' compensation system and to assess the impact of the reform acts of 1992 and 1996 on the system. The division must also maintain a statistical and historical database for the workers' compensation program. The division's cost is less than a private entity provides. The legislative mandate is to lower the overall cost of workers' compensation claims. It is in the citizen's interest to continue its current process.

Performance Standards

1. Benefit Review – Decrease annually the time taken to resolve Workers' Compensation temporary issues from receipt to resolution. Temporary issues include both Benefit Review Conferences and Requests for Assistance on Temporary Issues.
2. Case Management and Utilization Review – Increase annually the number of cases reviewed and resolved by the Medical Director and the Medical Cost and Containment Committee.
3. Case Management and Utilization Review – Increase annually the number of case managers registered annually.
4. Drug Free Workplace Program – Increase annually the number of private sector employers participating in the Drug Free Workplace Program.

Performance Measures

1. Benefit Review - Annually decrease the time taken to resolve Workers' Compensation temporary issues from receipt to resolution. Temporary issues include both the timing from the receipt of a Benefit Review Conference (BRC) request to the date of resolution and the timing from the receipt of a Request for Assistance (RFA) on Temporary Issues to the date of resolution.

a. Average number of days to resolve a BRC Resolution.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
120 days*	114 days	108 days

b. Average number of days to resolve a RFA Resolution

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
92 days*	92 days	87 days

2. Case Management and Utilization Review- Cases reviewed & resolved by medical director & Medical Cost & Containment Committee. NOTE: The medical director clarifies 5% or less of medical issues for the Benefit Review Program.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
150*	158	165

3. Case Management and Utilization Review- Number of case managers registered annually.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
150*	158	165

4. Drug Free Workplace Program- Number of private sector employers participating in the Drug Free Workplace Program.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
3,079*	3,227	3,388

*This number is an estimate as actual figures were not available for 2002-2003.

Obstacles to Meeting Objectives and Delivering Services

As more parties involved in workers' compensation claims become familiar with the Benefit Review Program, the demand for services continues to increase. Projected figures indicate that there will be an increase of approximately 9% in the number of requests for Benefit Review Conferences. More trial courts are referring cases to Workers' Compensation Specialists for resolution of disputes without litigation. This results in an increased caseload for the Workers' Compensation Specialists and administrative staff along with pressure to expedite the resolution of disputes.

State law requires that if a Workers' Compensation specialist is not available to conduct a Benefit Review Conference within 30 days of the request, the mediation is not mandatory. In some offices, the first available dates for a Benefit Review Conference are 90 to 120 days from receipt of the request due to heavy scheduling and shortage of mediators. This delay is contrary to the statutory purpose of resolving claims in a timely manner. Parties who are unwilling to wait for a Benefit Review Conference waive the process and proceed with litigation without the benefits of non-adversary, informal dispute resolution. In spite of the increase in requests for Benefit Review Conferences, the number held has not increased due to the limited capacity of the program to schedule and conduct more Benefit Review Conferences.

The heavy mediation caseload leaves few Specialists available to properly investigate and resolve issues involving temporary disability benefits and medical care for those parties in need of assistance. In 1996, the legislature gave Workers' Compensation Specialists the authority to approve settlements. No additional positions were created to fulfill this responsibility. This places an even greater burden on the Workers' Compensation Specialists and the support staff to schedule and conduct these settlement approvals.

Means of Overcoming Obstacles

To meet increasing demands, comply with the statutory requirements and provide appropriate handling of workers' compensation disputes, the Benefit Review Program must have more Workers' Compensation Specialists and administrative support staff. Although vacancies have been filled in a timely manner, the staffing is limited by the number of positions funded when the Program was established in 1992. Since that date, no new positions have been added even though additional mandates have been imposed by the legislature. Technological improvements have led to increased productivity allowing employees to focus on their growing workload. Continued replacement of computer technology enables Workers' Compensation to improve efficiency either through software or Internet based applicants. However, additional Workers' Compensation Specialists and support staff would result in more timely and efficient delivery of services. For example, to cut the delay in Benefit Review Conference scheduling in the Nashville office by half, it would require twice the number of Specialists doing the same number of conferences per month. Additional support staff is also needed to process files, generate confirming correspondence and gather necessary information.

Means of Maximizing Federal and Other Non-State Sources of Revenue

There is no source of Federal funding available to the Division of Workers' Compensation.

Money is generated for the General Fund of the State by fees charged for workers' compensation information requested by employers and attorneys or services provided through the division. Benefit Review services are currently provided free of charge. Consideration is being given to an establishment of a fee schedule for those services. Workers' Compensation could assess or increase the rate at which it charges for these services.

Means of Avoiding Unnecessary Costs and Expenditures

State and internal audits provide annual financial and compliance and performance reviews of the division.

The Department's Division of Administrative and Fiscal Services, along with the Administrator, monitor and review actual expenditures of the division regularly.

Future Challenges and Opportunities

Staffing shortages are a challenge as the Division of Workers' Compensation faces an increase in the number of claims filed in the state. As new computer technologies develop, the division may be able to continue to eliminate the need for data entry. This allows employees to focus their duties on their growing workload in the division.

A Benefit Review Conference is mandatory if it can be scheduled within a 30-day period. However, state law requires that a trial cannot be held until either there is a Benefit Review Conference or both parties agree to waive the conference. This timeframe causes the scheduling of conferences four months in advance in order to meet the increasing demand for services. With additional personnel, claimants can have their cases resolved and payments received quickly.

Department of Labor and Workforce Development

Performance Data Schedule

Workers' Compensation will report all performance standard measures on a quarterly basis. All data will be available the 15th of the month after quarter end. This timeline of release of information will allow those interested to follow trends in workers' compensation claims.

Data Verification

The Program Managers and the Administrator verify the information released on the Performance Data Schedule. More importantly, the Workers' Compensation computer system is able to track this information. This data is accurate and the monitoring system's security is not easily compromised.

337.08 Second Injury Fund

The division has offices in Knoxville, Jackson, and Nashville. The division is entirely funded by the state. The division represents the Second Injury Fund in catastrophic workers comp cases. The exposure on a given case could exceed \$500,000. In 2000, the Second Injury Fund opened 453 new cases. There were 562 new cases in 2001 and 677 in 2002. As of June 19, 2003 there have been 327 new cases opened. The current number of cases in active litigation is 1,148. In 2000, there were 953 cases in active litigation and last year the caseload was 1,276.

Statutory and Constitutional Objectives

In accordance with Tennessee Code Annotated (TCA) 50-6-208(a) and (b), the department is directed to actively defend the Second Injury Fund. It is the legal team's goal to minimize the Second Injury Fund's contribution to awards and settlements. This program further serves a legal counsel for the Tennessee Department of Labor and Workforce Development responding to information requests both internally and externally.

Mandated and Optional Services and Means of Providing Them

TCA 50-6-208(a) and (b) mandates that the legal representation for the Department of Labor and Workforce Development defend the Second Injury Fund.

Members of the legal team also prosecute TOSHA cases when necessary.

Performance Standards

1. Keep awards paid from Second Injury Fund at or below the level funded in the budget.

Performance Measures

1. Second Injury Fund awards.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
\$5,379,790	\$5,379,790	\$6,895,900

Obstacles to Meeting Objectives and Delivering Services

Since 2000, support staff in the legal office has been reduced 60% while the number of new cases processed has increased by 50%.

Means of Overcoming Obstacles

The legal office must work to find ways function effectively and efficiently with the current staffing situation.

Means of Maximizing Federal and Other Non-State Sources of Revenue

This area does not apply to the Second Injury Fund.

Means of Avoiding Unnecessary Costs and Expenditures

Maximize effectiveness on trips by scheduling more than one activity when possible reducing the need for future travels.

Future Challenges and Opportunities

In FY 2003 the Second Injury Fund paid out more awards than contributions were made to the fund. While it is not possible to exactly predict the amount of awards that must be paid from the fund each year, all possible actions must be taken to ensure payouts do not exceed contributions.

Performance Data Schedule

Second Injury Fund follows the same schedule as Workers' Compensation. The Second Injury Fund is will report all performance standard measures on a quarterly basis. All data will be available the 15th of the month after quarter end. This timeline of release of information will allow those interested to follow trends in workers' compensation claims.

Data Verification

The program managers and the administrator verify the information released on the performance data schedule. More importantly, the Workers' Compensation computer system is able to track this information. This data is accurate and the monitoring system's security is not easily compromised.

337.14 Uninsured Employers Fund

The Uninsured Employers Fund is one of the six programs comprising the Division of Workers' Compensation (337.03). The Uninsured Employers Fund monitors and enforces compliance with insurance coverage requirements of the Tennessee Workers' Compensation Law.

Statutory and Constitutional Objectives

Tennessee Code Annotated (TCA) Title 50, Chapters 6 and 9 and Title 56, Chapter 47 and General Rules and Regulations Chapters 0800-2 require the Division of Workers' Compensation to administer the state's workers' compensation system. The Uninsured Employers Fund penalizes employers without workers compensation coverage as specified by the law.

Mandated and Optional Services and Means of Providing Them

State law mandates that the Uninsured Employers Fund ensure that companies properly have workers' compensation coverage and both assess and collect penalties for noncompliance from employers as outlined in TCA 50-6-132, 50-6-412 and TCA 50-6-801. There are no optional services.

The Uninsured Employers Fund is mandated to issue a report annually to the legislature listing each noncompliant employer that failed to provide workers' compensation coverage, the time period of the lapse of coverage and the amount of the penalty assessed and collected. The employer is required to show proof of workers' compensation coverage or provide documentation as to why they are not required to carry workers' compensation coverage. If workers' compensation coverage is obtained, a penalty for the period of noncompliance is assessed at a rate of one and one half times the average yearly workers' compensation premium and collected from the employer. If workers' compensation coverage is not obtained, a penalty for the period of noncompliance is assessed at a rate of two and one half times the average yearly workers' compensation premium. If the employer still does not obtain workers' compensation coverage, the Uninsured Employers Fund may seek an injunction in chancery court to prohibit the employer from operating its business until the employer has obtained workers' compensation coverage.

Performance Standards

1. Increase the level of employer compliance with the coverage requirements of the Workers' Compensation Act above the level of 50% among referred employers.

Performance Measures

1. Level of employer compliance with the coverage requirement of the Worker's Compensation Act.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
48%	50%	52%

Obstacles to Meeting Objectives and Delivering Services

TCA 50-6-801 allows the penalties collected by the Uninsured Employers Fund to be used for payment of costs incurred by the administration of the program. As of this date, penalties collected have not exceeded the amount of administrative costs of the program. Due to staff shortages to resolve cases in a timely manner, there is an increasing backlog of open Uninsured Employers Fund cases.

Means of Overcoming Obstacles

Continued replacement of computer technology enables the program to improve efficiency. This includes use of new technology through software or Internet based applicants. A three-year plan to replace the computers for five positions and four printers is in place.

Means of Maximizing Federal and Other Non-State Sources of Revenue

There is no source of federal funding available to the Uninsured Employers Fund.

Means of Avoiding Unnecessary Costs and Expenditures

State and internal audits provide annual financial and compliance and performance reviews of the Uninsured Employers Fund.

The Department's Division of Administrative and Fiscal Services, along with the Administrator of the Division of Workers' Compensation, monitor and review actual expenditures of the Uninsured Employers Fund regularly.

Future Challenges and Opportunities

The Uninsured Employers Fund must continue to find ways to become more efficient in its operation and continue to investigate noncompliant employers to help eliminate any backlog of cases that may occur.

Performance Data Schedule

Uninsured Employers Fund will report all performance standards on a quarterly basis, available the 15th of the month after quarter end. The Uninsured Employers Fund is mandated by TCA 50-6-132 to report annually to the legislature a listing of each noncompliant employer that failed to provide workers' compensation coverage, the time period of the lapse of coverage and the amount of the penalty assessed and collected. This timely release of information will allow those interested to follow trends in Uninsured Employers Fund.

Data Verification

The program manager and the administrator of the Division of Workers' Compensation verify the information released on the performance data schedule. This data is accurate and available on a quarterly basis.

Labor Standards

337.06 Labor Standards

The Division of Labor Research, Standards and Statistics consists of support staff; employees responsible for reporting and recording statistics for the following surveys: Census of Fatal Occupational Injuries, OSHA Log Data Collection Survey and OSHA Recordkeeping; and inspectors who regulate the following laws: Child Labor Act, Wage Regulation Act, Prevailing Wage Act, and Employee Assistance Professional Licensing. The Prevailing Wage Commission consists of five members. The Employee Assistance Professional Board (EAP) consists of five members.

Statutory and Constitutional Objectives

Tennessee Code Annotated (TCA) 12-4 -4 (The Prevailing Wage Act of 1975) establishes and enforces the guidelines for minimum wage of different job classifications to be paid on state-funded highway and building construction projects.

TCA 50-2 (The Wage Regulation Act) establishes and enforces the guidelines for payment of wages to Tennessee employees by Tennessee Employers.

TCA 50-5 (The Child Labor Act of 1976) establishes and enforces the guidelines for employment of minors by Tennessee Employers.

TCA 62-42 establishes, regulates, and licenses Employee Assistance Professionals practicing in Tennessee through the Board of Employee Assistance Professionals.

The Occupational Injuries and Illnesses Survey (OSH) and the Census of Fatal Occupational Injuries (CFOI) are authorized by the OSHA Act of 1970, Public Law 91-596.

The OSHA Log Data Initiative Survey is authorized by The Occupational Safety and Health Act, 29 U.S.C. 657 & 673, and reporting regulations at 29 C.F.R. Part 1904.

Mandated and Optional Services and Means of Providing Them

The Prevailing Wage Act mandates that wage earners be protected from unfair practices regarding pay on state-funded building and highway construction projects. Payroll records are reviewed on all on-going building projects to ensure compliance with the prevailing wage rates. Job sites are visited and employees interviewed during routine investigations and investigations of employee complaints. Penalties are not currently assessed for violations of the Act. The Act also requires the Department of Labor and Workforce Development to conduct surveys to determine wage rates for various job classifications for state-funded construction projects.

The Wage Regulation Act mandates employers in private employments of five or more have a number of responsibilities: To inform all employees of the amount he/she will be paid prior to work being performed; establish and maintain regular paydays at least twice per month; provided a 30 minute rest or meal break if the employee is scheduled to work six hours or more, and; the Act protects employees from sex discrimination in relation to wages with the same job. Labor Standards is tasked with ensuring compliance with the statute through investigation of written complaints.

The Child Labor Act mandates that any minor under the age of 18 be protected concerning hours of work, hazardous occupations and meal breaks. A minor must be 14 years of age to be gainfully employed. Investigations are mandated at all places of employment where minors are likely to be employed. On-site inspections are initiated by complaint, report of minor injury, and routine scheduling. Penalties are assessed for non-compliance of this statute.

An optional service provided in conjunction with Child Labor is deliverance of lectures to interested parties educating them in the Child Labor Law. These lectures outline the responsibilities of the employer and are target employers who have been sited for violations as well as employers wishing to avoid violations. Lectures are provided free of charge once a month in the Nashville Office with plans to expand to East and West Tennessee in the near future.

Employee Assistance Professional Licensing is an optional service that issues licenses to applicants who have met the minimum requirements. An EAP program is a worksite-based program designed to assist in the identification and resolution of productivity problems associated with employees impaired by personal concerns including but not limited to: health, marital, family, financial, alcohol, drug, legal, emotional stress or other personal issues that might adversely affect an employee's job performance. The applicant's qualifications are verified by office staff and then submitted to the Board for review and disposition. Fees are collected for application and renewal of licensure.

To further the purposes of OSHA, the Secretary, in consultation with the Secretary of Health and Human Services, shall develop and maintain an effective program of collection, compilation and

analysis of occupational safety and health statistics. Such program may cover all employments whether or not subject to any other provisions of this Act, but shall not cover employments excluded by Section 4 of the Act. The Secretary shall compile accurate statistics on work injuries and illnesses which shall include all disabling, serious or significant injuries and illnesses, whether or not involving loss of time from work, other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

The Occupational Safety and Health Act allows OSHA to collect reports on OSHA recordkeeping. Companies that do not comply may be subject to enforcement actions.

Performance Standards

1. Collect penalties assessed for violation of the laws.
2. Improve response rate of Prevailing Wage Survey by 10%.
3. Increase the number of on-site routine Prevailing Wage Inspections by 50%.
4. Perform Child Labor Inspections in every county in the state twice per year.
5. The Occupational Injuries and Illnesses (OSH) Survey rate will meet The Bureau of Labor Statistics' requirement of an 85% response rate.
6. OSHA Log Data Collection Survey rate will meet OSHA's requirement of an 85% response rate.

Performance Measures

1. The amount of Child Labor & Wage Regulation assessed penalties collected.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
95%	97%	100%

2. Response Rate for Prevailing Wage Survey.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
15%	20%	40%

3. Percentage of Routine Prevailing Wage Inspections.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
50%	60%	75%

4. Percentage of Counties visited twice per year.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
64%	75%	100%

5. OSH Survey response rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
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95%	99%	100%
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6. Log Data response rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
95%	99%	100%

Obstacles to Meeting Objectives and Delivering Services

There is to the lack of employer response to the OSH Survey, also frequently it is difficult to obtain the correct mailing address of the employer. This leads to log data problems.

Means of Overcoming Obstacles

By contacting employers by phone and increasing the number of mailings to the employer, the division can insure that data is collected.

Means of Maximizing Federal and Other Non-State Sources of Revenue

By making sure that all surveys that are completely or partially federally funded are completed on time and with correct data, the division can insure that the federal funds are being used in the intended manner.

Means of Avoiding Unnecessary Costs and Expenditures

Internet applications are utilized whenever possible to disperse informational materials to the public. Required posters and forms are available for download and printing, which avoids costs to the Department for printing and postage.

Developments are in progress to make the Prevailing Wage Survey available via Internet, which will also save the Department for printing, postage and personnel processing.

Internal and external audits are necessary to prevent overspending. An external audit is done on the OSH Survey each year by the Bureau of Labor Statistics.

Increasing the number of Internet responses and allowing responses for the surveys to be sent via e-mail should be explored to save on postage charges.

Future Challenges and Opportunities

The current Labor Standards Program utilized by the inspection staff is quickly becoming obsolete. The current program will not support significant increases in inspectional activity. Program improvements have not been factored into the ISM three year plan.

By expanding the division's working relationship with the Bureau of Labor Statistics, the division can insure statistics are the most current.

Performance Data Schedule

Weekly activity reports are submitted to the Department Administrator. A monthly penalty collection report is also submitted to the Administrator. All data will be available on the 15th of the month following quarter end.

The Bureau of Labor Statistics and OSHA provide a performance data schedule of when data will be available. All programs have federal deadlines. A statistical report is done annually for the OSH Survey and CFOI.

Data Verification

Inspection reports are audited by the Director upon completion to ensure all documentation has been included. EAP applicant information is verified by office staff and through affidavit of applicants. Prevailing wage survey data is verified by perjury statement and follow-up phone calls by office staff. Division staff verifies the data received from the employer. In turn, US Department of Labor BLS and OSHA verify the information.

Employment and Workforce Development

337.07 Employment and Training

The division of Employment and Training's implementation of the Workforce Investment Act (WIA) Title I program has two main objectives. One objective is to create a seamless system that addresses the employer's needs for skilled workers. The second objective is to assist job seekers needing job training in order to further their careers. This training enables them to obtain better earnings, thus closing the gap between job seekers and labor market demands. WIA funds three separate programs, these are: programs for youth, programs for adult and programs for dislocated workers, who have lost employment through no fault of their own. The objectives of this program are to provide services to jobseekers and employers, as well as, to provide skills upgrade to employed workers (Incumbent workers). The Senior Community Service Employment Program (SCSEP) was merged into Employment and Training effective July 1, 2003. This program serves persons with low incomes who are 55 years old or over and have poor employment prospects.

Statutory and Constitutional Objectives

The Workforce Investment Act (WIA) Title I program mandates that all three funded federal programs (youth, adults and dislocated workers) receive the following services.

Section 134 (d) (2) of the Workforce Investment Act authorizes core services, with no eligibility requirements, for all adults. These core services include: job search and placement assistance; career counseling; labor market information that identifies job vacancies and needed skills for in-demand jobs, also identifies local, regional and national employment trends), initial assessment of skills and needs; information about available services and follow-up services to help customers keep new jobs.

Section 134(d) (3) authorizes intensive services including more comprehensive assessments; such as development of individual employment plans; group and individual counseling; case management and short-term pre-vocational services.

Section 134(d) (4) requires qualified customers who are not able to find jobs after receiving intensive services, to receive training services linked to local job opportunities. These training services may include occupational-skills training; on-the-job-training; entrepreneurial training; skills upgrade; job-readiness training; and adult education and literacy activities in conjunction with other training.

With the exception of the adult program, which has no eligibility requirements and is universally provided to all adult participants, youth and dislocated worker programs have eligibility criteria that must be met by individuals who want such services.

Employment and Training of the Department of Labor and Workforce Development is designated by the federal government as the Senior Community Service Employment Program (SCSEP) agency for Tennessee. These services are federally mandated by Title V of the Older Americans Act.

Mandated and Optional Services and Means of Providing Them

The three mandated services (core, intensive and training) are provided through the Tennessee Career Centers System to eligible individuals. The system is an integrated, statewide delivery system mandated by WIA. Depending on the location of a career center, it can house 15 to 17 partners representing agencies concerned with the labor and human potential development. Each Local Workforce Investment Area (LWIA) in Tennessee has at least one comprehensive center. Each LWIA also has other satellite offices providing services for rural communities. To compile information on these services, Employment and Training along with other state partners has opted to develop a common data collection system known as the enhanced Case Management Activities Tracking System (eCMATS). Incentive funds are also awarded to LWIAs meeting performance measures mandated by USDOL. Additionally, this data collection system is used for monitoring deficiencies in the system and for monitoring non-compliance with federal and state law and regulations.

The division conducts mandated statewide services required by WIA section 665.200, including Rapid Response. The division has placed eight area Rapid Response coordinators who respond to mass layoffs or closures for those who have lost their job anywhere in the state. Rapid Response services are restricted to dislocated workers. The career centers in each Local Workforce area disseminate information regarding services offered through the WIA program. These services are offered to individuals (adults and dislocated workers) and include information about eligible providers of training services (including those providing non-traditional training services), and information identifying eligible providers of on-the-job training (OJT) and customized training.

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Individuals seeking services can also find performance and program cost information along with a list of eligible providers of youth activities.

The Senior Community Service Employment Program (SCSEP) has two services mandated by the Older Americans Act: to provide useful community services and to foster individual economic self-sufficiency through training and job placement in unsubsidized jobs. Services provided include up to 20 hours a week of part-time employment in community service assignments, job training related education opportunities and opportunities for placement into unsubsidized jobs.

Employment and Training contracts for the following statewide services that are mandated or optional:

The Tennessee Higher Education Commission (THEC), in conjunction with the Employment and Training Unit, monitors and coordinates the state's Eligible Training Provider Certification System, a federally mandated service. THEC also performs investigations, on-site visits, maintains student records of closed institutions and conducts a state level appeal process to determine whether a denied provider should be deemed eligible to participate on the State Provider's List. The eligibility period for training providers is from July 1 until June 30 (each fiscal year.). The procedures for subsequent eligibility determination will include a review of each eligible program that has served a minimum cumulative of ten Workforce Investment Act supported students from the time of its initial eligibility until the time of analysis. The training provider must deliver results and provide accurate information in order to retain its status as an eligible training provider. If the provider does not meet the established performance levels, it will be removed from the eligible provider list.

The University of Memphis assists Employment and Training in the development of quarterly and annual Workforce Investment Act participant and performance reports, a mandated program. The University responds to requests from Local Workforce Investment Areas regarding information on customer satisfaction surveys as well as issues related to performance measures. They also assist with matters pertaining to eCMATS, statewide evaluations and state and local board technical assistance.

The Tennessee AFL-CIO provides Technical Assistance to those businesses and organizations having collective bargaining agreements with labor unions in the state. The AFL-CIO, in conjunction with the Employment and Training Section, assists workers who have lost their jobs due to layoffs or plant closures. Through this mandated service, AFL-CIO and Employment and Training work together helping these dislocated workers find and retain employment.

Jobs for Tennessee Graduates, an optional program that is a Jobs for America's Graduates national program affiliate, assists at-risk and/or disadvantaged youths graduate from high school and find and maintain quality employment. Students receive classroom instruction, community orientation and career exploration activities. Jobs for Tennessee Graduates requires student competencies in 37 different areas, thus meeting WIA goals for work-readiness, occupational skills training (where appropriate) and for a high school diploma.

Performance Standards

1. Increase the Adult Credential and Employment Rate.
2. Increase the Dislocated Worker Credential and Employment Rate.
3. Increase the Older Youth Credential and Employment Rate.
4. Improve the Younger Youth Diploma/Equivalent Rate.
5. Increase the Employer Satisfaction Rate.

Performance Measures

1. Adult Credential and Employment Rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
58%	59%	60%

2. Dislocated Worker Credential and Employment Rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
58%	59%	60%

3. Older Youth Credential and Employment Rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
48.5%	49.5%	50.5%

4. Younger Youth Diploma/Equivalent Rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
63%	63%	64%

5. Employer Satisfaction Rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
76%	77%	78%

Obstacles to Meeting Objectives and Delivering Services

Tennessee faces the possibility of plant closures and/or mass layoffs. The obstacle associated with such job loss is local area need for additional statewide funding. In 2002, local areas requested more than \$6,000,000 in additional statewide funding to provide services to adults and dislocated workers due to plant closures and skills upgrade for future employment

The reduction of federally funded youth and adult programs are 9.05% and 13.16% for Program Year 2003, respectively. These amounts allocated for Program Year 2003 reflect a total reduction of \$4,505,496 in federal funds that were allotted to Tennessee's youth and adult programs for Program Year 2002.

Federal regulations do not allow for providing Individual Training Accounts in the youth program. As a result, older youth needing to be issued Individual Training Accounts are unable to take advantage of the large amount of funding in the youth program, while they are enrolled as youth. Since the funding in the adult program is limited, older youth will remain in the youth program and will not receive the trainings they need.

Means of Overcoming Obstacles

If funding the career centers system becomes burdensome, Employment and Training plans to request direct funding from the U.S. Department of Labor (USDOL) for Tennessee centers.

Technical assistance will be provided to local areas that need support. Typically, local areas may require assistance in the area of performance and/or other board policy issues.

Due to limited funds for adult programs, the state may apply for a waiver in which older youth will be able to use the Individual Training Accounts generally associated with the adult programs. Applying for and receiving such, a waiver would allow for better use of expenditures within the youth budget; it would also allow more funds to be used for the adult population.

Means of Maximizing Federal and Other Non-State Sources of Revenue

Section 129 and Section 134 of the WIA describe how WIA Title I funds are to be used and what kinds of activities are to be carried out with these funds. Activities that assist participants with core, intensive, and training and support services are allowable. Additionally, rapid response services and activities for the youth, as well as administrative funds, are allowed. No state matching funds are required for the WIA Title I program. WIA Title I funds are allowed for expenditure for a three year period, and then unexpended funds are returned to the federal government. To date, the division has been able to expend all available funds within the three years.

To ensure that funds are used where they are most needed, the division is developing a process for deobligating and reallocating funds. This policy will take effect during the month of October 2003. The policy will require LWIAs to expend certain percentages of funds the LWIA receives on any given year. The division will calculate the differences between required level and the actual level of LWIA expenditures. Any difference between the required and the actual expenditure will be recaptured by the state and redistributed to areas requesting additional funds, fulfilling their expenditure obligations, with the exception of the LWIA who is deobligating the funds.

Upon review of local WIA requests for additional statewide funds, the division approves funds based on amount of expenditure and urgency of need. In addition, Employment and Training requires progress reports from local workforce investment areas, as well as other state contracted agencies receiving funds for incumbent worker and/or statewide funded programs.

The Senior Community Service Employment Program (SCSEP), funded under Title V of the Older Americans Act is 90% federally funded. The non-federal share of costs may be in cash or

in-kind, or a combination of the two, and shall be calculated in accordance with 29 CFR 97.24 or 29 CFR 95.23, as appropriate. Federal Funding is being maximized at this time.

Means of Avoiding Unnecessary Costs and Expenditures

Employment and Training utilizes Section 128(b)(3) and 133(b)(3) of the WIA Title I regulations to distribute available funds to local areas. Eighty-five percent of the youth and adult funds are allocated to local areas by formula. Five percent is used for state administrative purposes. Ten percent of the total youth and adult funds are retained at the state level and distributed to local areas as the need arises.

Employment and Training has contracted with the Department of Finance and Administration to monitor programs in each LWIA. Fiscal monitors are also assigned to ensure the LWIAs comply with federal and state regulations and policies. Additionally, each LWIA conducts in house monitoring of its sub contractors to ensure compliance.

Future Challenges and Opportunities

There are several challenges and opportunities facing the Department of Labor and Workforce Development in the near future and beyond. One of the challenges the department faces is finding ways to predict the types of industries that will be created within the state and the type of industries that move to the state, including the skills job seekers need to staff these industries. The second challenge is developing a mechanism for delivering training services to youth that are not ready to continue higher education or have dropped out-of school.

The new Title V federally proposed regulations are out for comment at this time. The new regulations will produce new performance measures and indicators for the Senior Community Service Program (SCSEP) service that will necessitate more recordkeeping in order to report to the service information to the federal government. The state Senior Community Service Program (SCSEP) will upgrade the SCSEP electronic data management system to ensure that accuracy and timeliness of reporting is maintained. In addition, Employment and Training will provide training and technical assistance for the sub-project staff to address the collection of this data.

Performance Data Schedule

Employment and Training will report all performance standard measures on a quarterly basis. All data will be available the 15th of the month after quarter end. Local Workforce Investment Areas are required by Employment and Training to submit progress reports on both program and performance data. Quarterly progress reports regarding program activities are submitted to Employment and Training by local areas disseminating services that have been provided during the allotted time period. The program report provides information relative to local boards, youth services, career centers, eCMATS, employer services and regional progress. The program progress reports are usually received three times a year as the planning process covers one period in which local areas would typically provide a progress report. The reports are available on January 15, July 15 and October 15. During the April 15 timeframe, local areas are providing current information about their local programs at the Tennessee State Workforce Development Board State Planning Committee meeting.

Performance data regarding adult, youth (older and younger), dislocated worker and customer satisfaction data for participants and employers is collected on a quarterly basis as well. These reports are collected and then sent to USDOL for review and feedback. The reports are available each January 15, April 15, July 15 and October 15 of the current program year.

Data Verification

Data is collected on a quarterly basis for statewide and local review. The statewide information is forwarded to the federal government quarterly and annually. Information for each of the 17 measures, all new enrollees and all exiters are collected for the reports. Statewide reports are compared to other states within the region each quarter and annually. The University of Memphis has been contracted to assist with calculating the quarterly reports, verifying participant employment and to conduct the customer satisfaction surveys. In addition, they have been gathering the information since the implementation of WIA. Cumulative data is being studied for a predictive model. This model will assist with estimating participant outcomes and lay the framework for building program performance adjustment models for the state and local areas.

337.09 Adult Basic Education

Adult Education was established by Public Law 105-220. The division also administers the educational component of Families First for the Department of Human Services. Additional responsibilities lie in the area of administering the GED program, which includes monitoring testing centers and diploma issuance. Adult education provides services below the post secondary level for individuals, who are 16 years of age, not enrolled in secondary school, lack sufficient basic educational skills or are unable to speak, read or write the English language.

Statutory and Constitutional Objectives

Adult Education is mandated by Title II, Workforce Investment Act of 1998, Adult Education and Literacy. This Title creates a voluntary partnership among the federal government, states and localities to provide adult education and literacy services to assist adults to become literate, obtain the knowledge and skills necessary for employment and self-sufficiency, and assist adults in the completion of a secondary school education.

Mandated and Optional Services and Means of Providing Them

Title II, Workforce Investment Act of 1998, Adult Education and Literacy mandate the Adult Education services, which include:

Adult Education (AE) includes instruction to students reading at 0-8.9 grade level equivalent. Instruction may include life skills training, citizenship and employability skills. Employability skills may include a range of instructional services such as education and training in job

readiness, job skills, life skills, job seeking skills, basic computer skills and job retention activities.

Adult Secondary Education (ASE) includes instruction to students reading 9.0 and above grade level equivalent at a higher level than those for Adult Education.

Workforce Development activities take two forms. First are workplace literacy activities for employees of a particular workplace. The second form of workforce development services focuses on preparing people for work or for career advancement

English Literacy includes programs of instruction designed to assist students of limited English proficiency achieve competency in the English language.

Adult Education for correction education and other institutionalized adults provides services that preparing them for a successful transition into the community, helps them acquire the social, survival and personal management and employment skills necessary to function in the family, community and workplace and prepares them to earn a GED.

Family Literacy services follow the Workforce Investment Act to incorporate all four components necessary for a successful family literacy project, including: interactive literacy activities between parents and their children, training for parents regarding how to be the primary teacher for their children and full partners in the education of their children, parent literacy training that leads to economic self-sufficiency, and age-appropriate education to prepare children for success in school and life.

Performance Standards

The U.S. Department of Education negotiates the performance percentages with the Adult Education Director. Tennessee consistently has had higher performance percentages than most states and meets or exceeds them each year. In addition, the NRS mandates Core Outcome measures to be met each year.

As described in Section 212, Performance Accountability System, the Department of Labor and Workforce Development, Office of Adult Education will establish a comprehensive performance accountability system to assess the effectiveness of funded programs to improve the adult education and literacy activities they conduct. The accountability system will help optimize the return on the investment of federal and state funds.

Continuous improvement will drive the Tennessee performance accountability system. Tools for continuous improvement will include the current Web-based reporting system that is uniformly used by all local programs. In addition, the enhanced Case Management and Activity Tracking System (eCMATS) will enable local programs to track participants from their entry into the program to the outcomes they achieve. Programs will have the data they need to monitor their own performance in relation to state goals and make necessary changes in their program.

Performance standards used with local providers will include the following core indicators of performance:

1. Percentage of enrollees who complete an Adult Basic Education program.
2. Percentage of enrollees who complete an English as a Second Language Program.
3. Percentage of enrollees who complete and receive their GED.

Performance Measures

1. Percentage of enrollees who complete Adult Basic Education program.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
32.75%	34.75%	36.75%

2. Percentage of enrollees who complete English as a Second Language Program.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
28.4%	30.4%	32.4%

3. Percentage of enrollees who complete and receive their GED.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
42%	44%	46%

Obstacles to Meeting Objectives and Delivering Services

Demand for ESOL instruction by both the private sector and business and industry has grown 33% over the past five years. The division is the sole source of public English instruction for the ESOL adult population.

Another obstacle to meeting objectives is the cost of the GED exam itself. When the test was re-designed, January 1, 2002, the cost rose to between \$55 and \$65, a 30 to 40 % increase. The increase has been found to be prohibitive to many students prepared to pass the GED exam.

Grant money received from the U.S. Department of Education cannot be used for bricks and mortar. Establishing Adult Learning Centers in each county is contingent upon the LEA or county funding. As education costs rise and growth continues, the availability of space for AE is becoming more limited.

Means of Overcoming Obstacles

Class size minimums have been increased to accommodate more students. Average quarterly attendance for each class will be tracked through eCMATS and classes falling below the minimum standards will be closed or integrated with other existing classes. This will work well, except in those situations where multi-level classes will have to be formed, as they are less than ideal for both the teacher and the students.

Adult Education programs will have to find ways to function effectively with fewer resources. Training for involvement in the Tennessee Quality Award system using quality management

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principles and continuous improvement based on the Malcolm Baldrige Criteria for Performance Excellence will reach 100% participation by September 2003, giving local program managers tools for more effective management. This will assist in optimizing available resources.

Extensive training for ESOL instructors and an ESOL in the workplace initiative will provide ways for ESOL instructors to operate more efficiently with less money.

Means of Maximizing Federal and Other Non-State Sources of Revenue

Adult Education programs across the state have formed partnerships with business and industry to provide the services requested by business by sharing educational costs. Business has shown a willingness to use their training dollars to provide specific educational services by cost sharing the amount for instructor pay and materials.

All Adult Education programs are encouraged to have an active Advisory Council and most do. These volunteer organizations with a 501C3 tax-exempt status actively raise money to support local AE programs through fundraisers and other donations. As well as acting as a public awareness tool, they also bring in much-needed local dollars to supplement local AE grants.

Adult Education grants awarded to local entities require a five percent cash match. This invests the local entity in the AE program and frees up more state and federal dollars.

Regionalization is being studied as a possible means of eliminating extra administrative costs, although there are many identified barriers to this such as the local required five percent match. Many local programs do not have or are not willing to use their resources for operating programs in adjacent counties.

A Train-the-Trainer method is in place to utilize the best and brightest Adult Education teachers and program managers and utilize them to train their peers on a regional basis. This decreases the cost associated with statewide training and enhances leadership opportunities while offering a more efficient way to deliver training than paying national or state trainers who require high fees and travel costs.

Means of Avoiding Unnecessary Costs and Expenditures

Technical assistance throughout the year is given to local programs by the division's staff. Monitoring class size reduces the number of classes that fall below minimum attendance standards thus reducing instructional costs. Fiscal monitoring is done on a three-year cycle to check for sound fiscal management and adherence to state and federal guidelines.

Line item changes throughout the year must be submitted and approved through the state office. Equipment purchases are approved in advance and checked against inventory lists which local programs are required to keep updated.

A Train-the-Trainer method is in place to utilize the best and brightest Adult Education teachers and program managers.

All written communication between the field and the main office is done via email, saving postage costs, reducing long distance calls, and eliminates some staff travel.

Future Challenges and Opportunities

An opportunity for the state to invest in Adult Education exists in order to meet higher performance standards and growth plan goals. Statistics show that 94.9% of all GED test takers do so for enhanced employment opportunities. More GED graduates means higher wages for the employee and expanded educational opportunities, which enhances the workforce and state tax collection coffers.

The need for adult learning centers still exists in more than half the Adult Education programs statewide. Full-time service, computer labs and a comfortable learning environment cannot be offered when AE programs must use existing community facilities such as schools, libraries or churches to hold classes. It is an added hardship on those AE instructors who must carry their materials in the trunk of their car as they go from site to site to instruct.

Funding sources for test fees must be found to give students without the resources to pay the fee an opportunity to pass the GED exam. Local Advisory Councils and some local businesses pay for some test fees, but the need is greater than existing resources can cover.

Providing distance learning for students with childcare and/or transportation issues is an opportunity for Adult Education growth, but with it comes the challenge of funding for hardware, software, training and staff.

Performance Data Schedule

Adult Education will report all performance standard measures on a quarterly basis. All data will be available the 15th of the month after quarter end. Weekly entry of all data entered into eCMATS as of July 1, 2003 is required so that quarterly monitoring can be achieved and problems corrected as they arise. Fiscal monitoring is done on a three-year cycle. An End-of - Year Report that includes a Program Improvement Plan is due on July 30 for the preceding year from all local programs. Reimbursements for Adult Education and Families First expenses are required monthly to closely track spending. The GED Office reports in February for the previous calendar year to the American Council on Education. A program review using the Program Quality Indicators is done yearly. In 2004-05, the instrument will be re-designed to merge with Baldrige Criteria requirements.

Data Verification

A Program Quality Instrument asks for data verification such as student sign-in sheets, minutes from Advisory Council meetings, newspaper clippings verifying community outreach, pre and post-test scores on all enrolled students, class schedules, proof of ADA compliances, needs assessments and other documentation that is needed for compliance issues. Persons taking the GED must provide the GED office with name, social security number, address, the test center where the exam was taken, the date of the exam and a signature.

Employment Security

337.10 Employment Security

Employment Security is a joint federal-state program responsible for Tennessee's Unemployment Insurance, Job Service and Research and Statistics/Labor Market Information programs. All administrative costs are paid from federal unemployment taxes (FUTA).

Unemployment insurance taxes (premiums) finance Tennessee's unemployment insurance benefits program and provide benefits to unemployed workers who have lost their job through no fault of their own. Employers pay premiums on their employees' wages into the Tennessee Unemployment Insurance Trust Fund. This Fund is used solely to pay unemployment benefits to Tennessee's unemployed workers. Unemployment insurance allows the unemployed to pay for necessities during short terms of unemployment.

Job Service is the largest employment agency in the country. In Tennessee, there are 79 offices across the state to provide free labor services for employers and workers. Job application and job orders are entered into a network, which gives job seekers and employers local, state and national exposure. Job Service offices also provide career counseling and aptitude and proficiency tests to help in matching workers with jobs. (Note: this section is discussed under 337.11.)

Research and Statistics/Labor Market Information (LMI) is the major information source on Tennessee's economic climate. LMI is responsible for the collection, analysis, interpretation and dissemination of state and local labor market information. Educators, federal, state and local governments, employers considering expansions, moves or new markets, and workers seeking job opportunities use this information. Labor market information is available free to the public through numerous publications and over the Internet.

There are 79 locations across the state to provide job service and unemployment benefit services. A Call Center in Nashville provides for telephone claims for Middle Tennessee claimants. Eight area Employer Accounts Offices collect premiums, audit accounts and assist employers with their unemployment insurance reporting requirements.

Statutory and Constitutional Objectives

Tennessee Code Annotated (TCA) Title 50, Chapter 7 requires the Division of Employment Security to administer the state's Unemployment Insurance and Job Service Programs.

Mandated and Optional Services and Means of Providing Them

The mandated services inside the Division of Employment Security include:

Field Operations is mandated to deliver Unemployment Insurance and Wagner Peyser Programs in communities throughout the state. The section has 81 locations in Tennessee with a staff that

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are trained to deliver a variety of workforce development services. It receives and processes claims for unemployment benefits in all areas of the state not served by the Call Center described below. It is through this network of Career centers and local offices that employers seeking qualified workers and job seekers looking for employment are brought together. In addition to these labor exchange activities; field staff process unemployment insurance claims, certify claimants for Trade Act services and refer applicants to partners within the Career Center System when services beyond the division's scope and expertise are needed to enhance an individual's employability or when substantial barriers to employment are noted. This section is mandated by TCA Title 50 Chapter 7 to provide Unemployment Insurance and Wagner-Peyser services to the citizens of Tennessee.

Unemployment Insurance Call Center Operations is mandated to provide unemployment insurance claims, taking services by telephone to individuals residing in an eleven county area in Middle Tennessee, as well as, those former Tennessee residents who are residing in another state. Title 50 Chapter 7 requires these claims taking services be provided and regulates their delivery.

Benefit Operations is responsible for the processing and payment of claims for Unemployment Insurance benefits mandated by law (TCA 50-7-301). This section is composed of Federal Benefits, Combined Wage, Data Entry, Microfilm, Receipt Unit, Benefit Charge and the Interstate Program Coordinator. Most units in Benefit Operations perform support functions for the Field Offices and the Call Center where the initial claims are taken. Also under this section, is the Benefit Payment Control Unit, which is responsible for the prevention, detection and collection of overpaid benefits. Sections 303(a) (1) and 303(a) (5) of the Social Security Act, Sections 3306(h) and 3304(a) (4) of the Internal Revenue Code and Section 7500 of the *ES Manual*, Secretary's Standard for Fraud and Overpayment, requires that state law include provisions to deter claimants from obtaining benefits through error or willful misrepresentation, to detect benefits paid through error or willful misrepresentation, and to recover benefits overpaid.

Unemployment Insurance Appeals hears appeals of initial decisions related to eligibility for benefits. It is organized into two statutory sub-sections, the Appeals Tribunal and the Board of Review. The Appeals Tribunal is the first level of appeal. Its hearing officers must hold hearings and issue written decisions in each case. The Board of Review is a panel appointed by the Governor to hear claims appealed for the Appeals Tribunal, aided by a small group of hearing officers. They will either hold another hearing or simply review the record of the prior proceedings before issuing its decision. The Board's decision may be appealed to the Chancery Court. The appeal process is mandated by law (TCA 50-7-304) for parties (claimants and employers) dissatisfied with division decisions on unemployment compensation claims.

Employer Accounts is comprised of multi-units that establish liability of employers, determine tax rates, receive and process all premium reports and maintain individual employer accounting. Also included is the Tax Enforcement Section, which is responsible for the coordinating activities of two central office units and eight field offices in collection of Unemployment Insurance premiums, securing delinquent reports, auditing employer's records and enforcing employer compliance with Unemployment Insurance laws and regulations. This is mandated by TCA Title 50, Chapter 7 and Title 62, Chapter 43.

Unemployment Insurance Technical Services is comprised of three units. These units are Technical Support and Training, Reports and Compliance, and Special Services. The UI Technical Services Section provides technical support and gives information to central and local

office personnel, claimants, employers and the general public concerning unemployment insurance claims, the claims process, Employment Security Law, Employment Security Policy, and division decision issues. This includes analyzing legislative impact and preparing procedural guides for implementation and compliance, responding to correspondence and telephone inquiries, coordinating the child support intercept program, developing and delivering specialized training, analyzing and projecting unemployment insurance workload activity, along with conducting federally mandated monitoring functions, maintaining a quality control system, which examines a sampling of UI benefit payments for accurate application of law, rules and procedures, and supports a special projects effort to develop and maintain and monitor automated enhancements to program operations. This is mandated by TCA Title 50, Chapter 7 and Title 62, Chapter 43.

Research and Statistics (R & S)/Labor Market Information produces comprehensive, accurate, timely and properly documented labor market information regarding the economic and demographic characteristics of the people, business and industry of Tennessee. This labor market information is essential for informed decisions by national, state and local government policy makers, professional economist, employers and individual citizens. Through cooperative agreements with the U.S. Department of Labor, Bureau of Labor Statistics (BLS), Research & Statistics (R&S) operates five major programs, which include Current Employment Statistics (CES)/ Field Staff, Local Area Unemployment Statistics (LAUS), Mass Layoff Statistics Program (MLS), Occupational Employment Statistics (OES), and Covered Employment and Wages Program (ES 202). The BLS is authorized to collect labor market information mandated by statute (29 USC 1) and Section 14 of the Wagner- Peyser Act (29 USC 49 f (a) (3) D.)

Employment Security Information Technology is responsible for the development and maintenance of all automated systems for the Employment Security Division. This includes systems on the Bull mainframe, client-server and web-based applications. In addition, the section is responsible for all data entry that is not handled by users in other sections within the division using PCs or scanners. The mainframe is connected to the state's wide area network (WAN) and the Amdahl mainframe. Applications include: the Employment Security Computer Online Technology (ESCOT), which is the benefit payments and Job Service on-line system, wage records, check reconciliation, premium accounting, statistical reports, cost accounting and more.

The Employment Security Marketing Section is responsible for promoting the products and services for the Department of Labor and Workforce Development. The program's director oversees a staff of marketing representatives out stationed across the state.

Performance Standards

1. Fully trained Interviewers average between 18 and 20 claims or 75 inquiry calls per day.
2. For the Appeals Tribunal, the promptness standards provide that:
 - a. A minimum of 60% of all appeals to the Appeals Tribunal be heard and determined within 30 days from the date the appeal is filed;
 - b. A minimum of 80% must be determined within 45 days; and
 - c. A minimum of 95% must be determined within 75 days.
3. New accounts set-up within 90 days of becoming liable.
4. Increase by 5% the employment response rate for the state and sub state areas, while maintaining the unit response rate and the quality of the responses.

Performance Measures

1. Interviewers average claims or inquiry calls per day.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
18 Claims/75 Calls	16 Claims/60 Calls	18 Claims/75 Calls

2. For the Appeals Tribunal, the percentage of appeals heard and determined within:

- a. 30 days

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
21%	60%	70%

- b. 45 days

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
49%	80%	85%

- c. 75 days

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
82%	95%	97%

3. New accounts set up within 90 days or less

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
85.1%	85.5%	85.5%

4. Labor Market Information/ Research & Statistics Occupational Data Unit Occupational Employment and Wages Survey

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
73.7%	65%	70%

Obstacles to Meeting Objectives and Delivering Services

Certain obstacles are common throughout the division. An increase in workload due to a sluggish economy and growing state population has created problems to meeting objectives for many sections of this division. Appeals saw an increase of 34% in a three-year period. The more people that are laid off from work, the more people will file for unemployment benefits, which creates increased work for every section. There has also been a shortage of qualified candidates to fill vacancies when they occurred because of the state's low pay for employees. As technology continually changes, the division will need to have more training for employees to keep them able to meet their standards and provide quality service to the public. In addition, the use of

technology requires that the continually review and modification of job classifications to provide employees with the skills needed to utilize these technologies.

Means of Overcoming Obstacles

The division could cut down on time and provide a better service by becoming more automated. The UI Call Center Operations Section, UI Technical Services and Information Technology are working with selected vendors to develop and enhance electronic methods of providing these claims, taking services in order to speed up processes, and do more work with less staff. Another method to overcome obstacles is to develop and standardize routine in-house training for new employees, refresher training for more seasoned employees, and utilize all supervisor-training programs provided by the Department of Personnel to increase the skills of staff, and make them more proficient in exercising their duties.

Means of Maximizing Federal and Other Non-State Sources of Revenue

Although all funding is derived from the federal government, the program should take advantage of grant monies. During the past few years, the program has acquired \$1.5 million in federal grant funds to develop and implement telephone and Internet claims taking applications.

Means of Avoiding Unnecessary Cost and Expenditures

Analyzing current operations, making necessary changes to policies and procedures, and utilizing electronic filing and Internet reporting will improve efficiency as well as using part-time and temporary personnel when full time positions are not cost effective.

Federal auditors from the regional office in Atlanta audit the program each year. All purchases and travel requests are approved through the Department and State Finance and Administration. In addition to the annual federal monitoring reviews, departmental internal auditors as well as, the state auditors from the Office of the Attorney General also monitor Employment Security annually.

Future Challenges and Opportunities

The UI Call Center Operations section faces the challenges and opportunities of expanding remote claims and taking services statewide. This includes: the leasing and build-out of a second physical location, the purchase and installation of equipment, the hiring and training of a significant number of staff, coordination of the transfer of claims taking workload with current Field Operations and local office staff members, further development and enhancement of both telephone and Internet applications, and the development and implementation of an imaging system with capabilities of a scanned mail claim.

Remote claim taking such as telephone claims, mail claims and Internet claims create significant challenges in terms of identity verification. The loss of one-on-one contact inherent in remote

claims taking also reduces the amount of direct information and instruction that claimants receive that could prevent over payments.

Performance Data Schedule

Data is gathered weekly, monthly and quarterly for each program that has a performance standard.

Reports for internal and external use, including federal reporting requirements, are available on the 15th of the month after quarter end.

Data Verification

In addition to audits, the computer system also verifies information with various data validations routines. Furthermore, data is reported monthly and quarterly to the United States Department of Labor to be validated.

337.11 Employment Development

Employment Development consists of the Job Service Program Support (JSPS) section, which provides technical assistance in specific programs to Job Service local offices and employers. JSPS is one of the sections making up the Employment Security Division. For some programs, JSPS provides services directly to the client. The section consists of the following services: Alien Labor Certification, Food Stamp Employment and Training Program, Housing Inspections, Trade Adjustment Assistance, Wagner-Peyser Act, Work Opportunity Tax Credit Program.

Job Service is the largest employment agency in the country. In Tennessee, there are 79 offices across the state to provide free labor services for employers and workers. Job application and job orders are entered into a network, which gives job seekers and employers local, state and national exposure. Job Service offices also provide career counseling and aptitude and proficiency tests to help in matching workers with jobs.

Statutory and Constitutional Objectives

20 CFR Part 656 stipulates that before the Immigration and Naturalization Service (INS) may approve petition requests and the Department of State may issue visas and admit certain immigrant aliens to work permanently in the United States, the Secretary of Labor must first certify to the Secretary of State and the Attorney General that the above requirements have been met.

The Personal Responsibility Plan and Work Opportunity Reconciliation Act of 1996 and the Balanced Budget Act of 1997 mandated changes in the Food Stamp Employment and Training Program. Emphasis is now placed on employment and training services for the ABAWD

members of Food Stamp households. Quality service will continue to be provided to the regular participants of the program.

Under Federal Regulations at 20 CFR Part 655, Subpart B, the U.S. Department of Labor (USDOL) has established procedures and a systematic process to acquire information sufficient to carry out the requirements of the law. The H-2A provisions of IRCA require the employer to apply to the U. S. Department Of Labor Employment and Training Administration (ETA) for a certification that there are not sufficient workers who are able, willing and qualified, and who will be available at the time and place needed, to perform the labor or service involved in the application, and the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. Conditions that must be satisfied include appropriate wages, workers' compensation and housing meeting the requirements of #1919.142 Temporary Labor Camp Regulations.

The Trade Act of 2002 including the Trade Act of 1974; 20 CFR 617; created a program of trade adjustment assistance to assist individuals, who became unemployed as a result of increased imports, return to suitable employment.

The Wagner-Peyser Act, as amended by the Workforce Investment Partnership Act of 1997, is the statutory authority for the Employment Service's Labor Exchange activities. Section one (1) of the Wagner-Peyser Act states, "In order to promote the establishment and maintenance of a national system of public employment offices, the United States Employment Service shall be established and maintained within the U.S. Department of Labor."

The WOTC Program was created under The Small Business Job Protection Act of 1996 (Public Law 104-188). The Internal Revenue Code of 1986, Section 51, as amended and its enacting legislation, P.L. 104-188, specify that the "State Employment Security Agencies (SESAs) now referred to as State Workforce Agencies (SWAs)" are the "designated" agencies responsible for administering the WOTC and W2W certification procedures of these programs.

The W2W Program was created by Section 801 of The Taxpayer Relief Act of 1997 (Public Law 105-34). The statutory and constitutional objectives of the WOTC Program also apply to the W2W Program. Both programs (WOTC & W2W) are currently authorized under the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147).

Mandated and Optional Services and Means of Providing Them

Federal regulations set the process designed to develop information to support the granting of a permanent labor certification. Employers interested in permanently employing immigrant aliens in the U.S. are required to demonstrate that they have attempted to recruit U.S. workers through advertising, through the Federal-State Employment Service System, and by other specified means. The purpose is to assure that there is an adequate test of the availability of U.S. workers to perform the work and to ensure that aliens are not employed under conditions that would adversely affect the wages and working conditions of similarly employed U.S. workers.

The Tennessee Department of Labor and Workforce Development is the administrator of the Food Stamp Employment and Training Program (FS E&T) grant awarded by the Food and Nutrition Service Division of the U.S. Department of Agriculture. The Department, in collaboration with other public and private agencies, provides employment and training programs

for designated Food Stamp clients. The FS E&T Program provides case management, skill training, assistance to participants enrolling in vocational schools and life skills classes.

Trade Adjustment Assistance (TAA) is mandated to provide information and assistance regarding the different types of re-employment services available to TAA eligible workers. Types of services available to the workers are Classroom/Vocational training, OJT training, Job Search Allowance, Relocation Allowance, Custom training, Health Care Tax Credit, and Alternative Trade Adjustment Assistance.

Wagner-Peyser (Employment Service Labor Exchange) – Basic (core) Labor Exchange Services consist of taking, processing, and accepting applications for employment; assessment, counseling, and testing; labor market information, job search assistance, job referral and placement; and placement assistance beyond direct placement such as job development and resume preparation. Title 38 United States Code requires that all Wagner-Peyser services be provided to veterans on a preferential and priority basis.

Tennessee Employment Service law requires the work test be administered to eligible unemployment insurance claimants. The work test requires that all eligible claimants be referred to the Employment Service for work registration and to be provided a work test interview to assess the claimant's primary and additional job qualifications. In addition, the work test provides an avenue of screening claimants for training opportunities offered by Workforce Investment Act (WIA) partners. The work test assessment will provide time to identify and exchange information on potential eligibility issues.

Work Opportunity Tax Credit (WOTC) / Welfare-to-Work Tax Credit (W2W) certification decisions by the SWA must conform to all Internal Revenue Service rules and regulations (Section 51, 51A, and 52 of the IRS Code) governing the operation of these two tax credits and to the policies and interpretations of the U.S. Employment Service and ALMIS, Office of Workforce Investment, U.S. Department of Labor.

Performance Standards

1. Decrease backlog in Alien Labor Certification.
2. Increase the number of clients in Food Stamp Employment and Training program who become employed.

Performance Measures

1. Alien Labor Certification backlog cases.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1,212	1,000	800

2. Food Stamp Employment and Training number of clients employed.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1,520	1,572	1,623

Obstacles to Meeting Objectives and Delivering Services

The 245 (i) Life Act of 2000 allowed large numbers of Alien Labor applications to be filed by the deadline date of April 30, 2001. As of that date, ALC received over 2,500 applications. This influx caused and will continue to cause major delays in the review process of all ALC applications. Current processing times indicate a continued backlog of at least four years.

The Able Bodied Adults Without Dependents (ABAWD) population has the least barriers and is probably more likely to utilize other resources to obtain independence, thereby limiting the population the department serves. Many ABAWDs are homeless and/or lack telephones, making it difficult to contact them.

Means of Overcoming Obstacles

Amendments to the ALC Law have encouraged some employers or their designated agents to request permanent cases received on or before August 3, 2001, to be converted to “Reduction in Recruitment” cases. Doing so enables ALC staff to direct their focus to those cases that cannot be converted.

Provide as many services as possible on the initial visit (assessment, job and/or training referrals). Establish a contact date and time for the client to return.

Means of Maximizing Federal and Other Non-State Sources of Revenue

Each year plans are prepared indicating anticipated amounts of cases expected during the coming program year. Federal dollars are then allocated to the states to cover cost of staff time to process cases.

Means of Avoiding Unnecessary Costs and Expenditures

Conduct training sessions that focus on educating service providers in the application of regulations that govern the Food Stamp Employment and Training Program.

More use of the Internet such as application for job services on the Internet and self-referrals to selected job openings via the Internet or local office terminals.

Future Challenges and Opportunities

Development of an automated system whereby collection and transmission of data will maximize the use of staff time, reduce and eliminate some processing errors, and render greater program efficiency is imperative.

The implementation of new benefits and service guidelines under the new Trade Act of 2002 will be one area of challenge. The Health Care Tax Credit (HCTC), Alternative Trade Adjustment Assistance (ATAA), TAA for Farmers, time limits for enrollment, and the new waiver process are all new additions to the law. The challenge and opportunity will be to learn the new parts and how to best use them to benefit eligible workers.

Performance Data Schedule

Data is submitted monthly by the field office staff to the FS E&T Unit for compilation.

All TAA forms and/or training packets must be completed and forwarded to the central office for processing no later than 30 days prior to the enrollment date.

Federal reporting of Labor Exchange Services is performed quarterly and the reporting is due by the middle of the second month following the close of each quarter. Other reporting takes place in the Employment Service on a monthly and quarterly schedule comparing state and local goals and actual activity.

The quarterly programmatic data is reportable to the U.S. Department of Labor by the 15th of the month following the end of the quarter.

Data Verification

The ALC unit database includes date of receipt, prevailing wage date, date forwarded to USDOL Regional office and date certified or denied. The use of this database increases the accuracy of weekly, monthly and bi-annual reports.

The data collected on the ABAWD monthly report is compared to the Food Stamp tally sheet during monitoring visits.

A data verification software package is being provided by USDOL to verify data used in computing regular and veteran performance measures.

Data verification is monitored on a quarterly basis by a manual count of certain records to compare with system-generated numbers.